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Tuesday, 27 April 2004, 3.30 p.m.
New York

President:	Mr. Pleuger	(Germany)
Members:	Algeria	Mr. Baali
	Angola	Mr. Gaspar Martins
	Benin	Mr. Adechi
	Brazil	Mr. Sardenberg
	Chile	Mr. Muñoz
	China	Mr. Wang Guangya
	France	Mr. de La Sablière
	Pakistan	Mr. Akram
	Philippines	Mr. Baja
	Romania	Mr. Motoc
	Russian Federation	Mr. Gatilov
	Spain	Mr. Arias
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United States of America	Mr. Negroponte

Agenda

The situation between Iraq and Kuwait

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04-32435 (E)

The meeting was called to order at 3.35 p.m.

Adoption of the agenda

The agenda was adopted.

The situation between Iraq and Kuwait

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Lakhdar Brahimi, Special Adviser to the Secretary-General.

It is so decided.

I invite Mr. Brahimi to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

At this meeting, the Security Council will hear a briefing by Mr. Lakhdar Brahimi, Special Adviser to the Secretary-General, on whom I now call.

Mr. Brahimi: I am delighted to speak under your presidency today, Sir, in order to brief the Council on Iraq.

Members will recall that the Security Council, in its presidential statement of 24 March 2004, unanimously welcomed and strongly supported the Secretary-General's decision to dispatch a team, which I was privileged to lead, as well as an electoral assistance team, in order to lend assistance and advice to the Iraqi people in the formation of an interim Iraqi Government to which sovereignty will be transferred on 30 June 2004, as well as in the preparations for direct elections to be held before the end of January 2005.

As members will also recall, the Secretary-General took that decision in response to explicit requests from the Iraqi Governing Council and the Coalition Provisional Authority, on 17 March 2004, for United Nations assistance in those two specific areas.

Accordingly, as instructed by the Secretary-General, I visited Iraq from 4 to 15 April. Prior to reaching Iraq, I was privileged to represent the Secretary-General at the International Conference on Afghanistan, held in Berlin on 31 March and 1 April. There I had the opportunity to discuss the situation in Iraq with Chancellor Schröder and his Foreign Minister, Mr. Joschka Fischer, as well as with the representatives of other Security Council member States, including the Foreign Ministers of China and of the Russian Federation, the Foreign Secretary and the State Secretary for International Development of the United Kingdom, and the Secretary of State of the United States of America.

In addition, in Berlin, I met with the Foreign Minister of Ireland, which now holds the presidency of the European Union; the Deputy Foreign Minister of Iran; the Japanese Prime Minister's Special Representative; as well as the External Relations Commissioner of the European Union and His Highness the Agha Khan.

On route back from Iraq, in Kuwait City, I had a chance to meet with the Foreign Minister of Kuwait. On the way back to New York, I was able to have an audience in Rome with President Ciampi and Prime Minister Berlusconi, and in Paris with President Jacques Chirac, in addition to meeting separately with the respective Foreign Ministers of both countries. In Paris, I met also with the Foreign Minister of Iran, who was himself visiting a number of European capitals, and the Prime Minister of Lebanon.

While in Iraq, I was accompanied by my spokesperson and three political advisers, who had been in Iraq for approximately one week in advance of my arrival in order to help prepare for the visit.

Concurrently with our visit, Carina Perelli, the Director of the Electoral Assistance Division in the Department of Political Affairs, was leading an electoral mission composed of a similarly sized team.

I very much appreciate this opportunity to brief the members of the Council on our visit as well as to outline a few ideas on the potential way forward. I look forward to hearing the Council's reactions and advice.

As the Council is are aware, I previewed some of my tentative thoughts in public on the eve of my departure from Iraq, on 14 April, at a joint press conference in Baghdad with the Chairman of the Interim Governing Council for this month, Mr. Massoud Barzani. I had wanted to be as transparent as possible and to give the Iraqi leaders and public at large as clear an idea as possible of those preliminary

thoughts. Thus, much of what I will outline today should not come as a surprise.

The Council will note, however, that some ideas have been clarified based on the reactions that we are already hearing from various quarters in Iraq. Furthermore, I have now had a chance to brief the Secretary-General more fully and to obtain his guidance and advice. But our plans for the way forward remain very much a work in progress.

I think that, before getting into the details on possible avenues for the way forward, it is important to describe for the Council the context within which this visit took place.

The security situation, above all else, was and remains extremely worrying. An atmosphere of great tension and anxiety persists in the face of the siege of Fallujah, the Mahdi army's uprising in the south, and the general increase in violence up and down the country.

The hopes for a peaceful resolution to the stand-off in Fallujah which the Secretary-General has repeatedly expressed in the past weeks, including to the United States Secretary of State, Colin Powell, have not yet materialized. As a matter of fact, just before coming in, we saw that major fighting was taking place, and therefore my remarks on the subject of Fallujah seem to have been overtaken by events.

On 22 April, staff of the United Nations Assistance Mission for Iraq (UNAMI), now based in Amman, received a delegation from Fallujah. That delegation claimed that several hundred of Fallujah's inhabitants had died and that well over 1,000 had been wounded — many of them women, children and the elderly. The United Nations is not in a position to verify those figures or the causes of death and injury, but there is little doubt that many lives have been lost and much suffering endured by civilians.

You also saw on television screens yesterday images of yet another mosque which had taken a direct hit. Reports today of attacks from and on that mosque are a source of shock and dismay. The United Nations has been active in trying to do whatever it can, appealing for restraint and working with Iraqi non-governmental organizations, the International Committee of the Red Cross (ICRC) and others to provide some humanitarian relief to the civilian population. However, that is just a stopgap measure. Talks between the Coalition Provisional Authority and representatives from the city have been ongoing for some time now. They had secured an uneasy ceasefire, which, I am afraid, has now been overtaken by events, as I said earlier. Nevertheless, the Coalition Provisional Authority is well aware that, unless the standoff — and now the fighting — is resolved through peaceful means, there is a great risk of a very bloody confrontation. The Coalition Provisional Authority knows as well as — indeed, better than everyone else — that the consequences of such bloodshed could be dramatic and long-lasting.

The same is true of the extremely precarious and complicated situation in Najaf and in Karbala. They are among the holiest and most beloved of cities for millions of Shi'a in Iraq and around the world. They are places for worship, not for military confrontation. We join our voices to those of the many respected religious leaders and others in Iraq who have been appealing for respect for the rule of law and for an early, peaceful resolution of this crisis.

The nature of these dynamics, together with the general insecurity prevailing in the country, certainly had an impact on our visit. It prevented us from meeting a number of important religious, political and tribal figures whose advice and views are of great importance. In addition, our movements, even within Baghdad, were severely restricted. Had the Coalition Provisional Authority not dedicated a great deal of manpower, time and attention to our visit, the latter might well not have taken place at all. I take this opportunity to express our sincere appreciation to the Coalition Provisional Authority for all the support that it provided.

Even under those circumstances, however, our team was able to meet with a large number of Iraqis drawn from across society — politicians, civic and religious leaders, women's groups, academics, intellectuals, artists, and businessmen and merchants, among others — not only in Baghdad, but also in Mosul and in Basra. We were humbled by the many Iraqis who faced the perils of travel in today's Iraq and even inside Baghdad in order to meet with us. We are profoundly sorry that we failed, because of security constraints, to meet with some of them.

A key question is whether a credible political process is even viable under such circumstances. It is important to note, in this context, that the limited task

we are presently engaged in — which is only the formation of an administration to assume responsibility as of 30 June — is part of a much broader political process, and that this political process has to be seen against the background of the realities that made it necessary: namely, war and occupation and, before that, a very harsh and brutal regime, and severe, even crippling sanctions, not to mention two earlier devastating and costly wars.

The political process aims at restoring Iraqi sovereignty and independence, preserving the country's unity and territorial integrity and making the Iraqi people truly the masters of their own destiny, with the political system of their choice and control over their own natural resources.

So, is it possible for the process to proceed under such circumstances? Will it be viable? Will it be credible? I put it to the Council that there is, in fact, no alternative but to find a way of making the process viable and credible. Between security on the one hand, and the end of occupation, the restoration of sovereignty and independence and the advent of a legitimate Iraqi Government and political regime on the other, there is a dialectical link that is obvious. Security is essential for the process to be completed. A viable political process is no panacea; it is a powerful contributing factor to security — hence the importance of a credible Iraqi Government being in place, leading the way in the completion of the next phases of the political process. In the end, the solution to Iraq's problems will have to come from the Iraqis themselves. The sooner a credible Iraqi Government is in place to lead the way, the better, especially because the absence of such a sovereign Government is part of the problem in the first place.

For that reason, among others, virtually every Iraqi with whom we met urged that there be no delay in bringing an end to the occupation — by 30 June at the latest. They maintain that view even though they understand that a democratically elected, and therefore fully legitimate, Government will not be in place by that date.

The elections scheduled to take place by January 2005 are the most important milestone in the process. Until that time, any Iraqi governing body that exists will, by definition, be less than fully representative. There is no substitute for the legitimacy that comes from free and fair elections. Therefore, Iraq will have a fully representative Government only after January 2005.

As I said earlier, a United Nations electoral team has already started work in Baghdad and has made a number of field visits. In the near future, the Secretariat will be in a position to brief the Security Council separately, and in detail, on the observations and findings of the electoral assistance team's work to date with regard to the preparations for those elections.

Meanwhile, the question obviously arises as to whom the Coalition Provisional Authority will yield power by 30 June. The 15 November 2003 political agreement and the Transitional Administrative Law call for the dissolution of the Iraqi Governing Council by 30 June 2004. Continuing with the Interim Governing Council, either in its present form or with some adjustment, is therefore by its own decision not an option.

The majority of Iraqis with whom we spoke told us that, under the circumstances, they favoured the establishment of a new caretaker Government composed of honest and technically qualified persons. There is near unanimity that the Government should be led by a very qualified prime minister. We would suggest that a president should serve as head of State, with two vice-presidents. Some Iraqis are asking whether, at this stage and for such a short period, it is really necessary to have two vice-presidents in addition to the head of State. There are certainly people who feel uneasy about what they see as excessive and, indeed, negative concern with ethnic balance. On the other hand, many others strongly support this particular proposal and point out that useful lessons could be derived from the existence of a president and two vice-presidents for the coming phases of the transition, as well as for the drafting of the constitution by the elected national assembly.

In general, there are many permutations one could explore for the structure of the caretaker Government. But what we are suggesting here has the merit of enjoying the support of many of the Iraqis with whom we have met and is reasonably simple and straightforward.

What should be the responsibilities of and constraints on such a caretaker Government? The caretaker Government, by definition, must be short-lived, as its sole purpose will be to tend to the day-to-day administration of the country in as effective and

efficient a manner as possible, and only until such time as a democratically elected Government can be put in place. While they carry out these responsibilities, the members of the caretaker Government must be careful not to use their positions to try and give advantage to any political party or group. In order to prevent even the perception that they might do so, it would be best if the members of the caretaker Government, including the interim president, vice-presidents and prime minister, were to choose not to stand for election.

The caretaker Government also needs to be mindful at all times of the fact that it has not been democratically elected. It should therefore refrain to the maximum extent possible from entering into long-term commitments that can and should await decision by an elected Government. In moments of doubt on that question or when faced with potentially sensitive or divisive issues, it should err on the side of caution. It should also seek the advice of representatives of all parts of Iraqi society. To that end, we suggest the establishment of a consultative assembly or council, which would be available to the caretaker Government for this purpose throughout its short tenure.

Who whould select the caretaker Government? Ideally, the Iraqi people themselves should select the Government. They know who is and who is not honest or qualified. Furthermore, there are honest and qualified people in every single political party and in every regional, ethnic and religious group. It should not be difficult to identify a list of extremely well-qualified candidates — men and women — for every single position who are representative of Iraq's diversity.

The United Nations can certainly help the Iraqi people in that process, as requested, by meeting with as many of them as possible and identifying where points of consensus could be forged. Though it will certainly not be easy, we believe that it will be possible to identify by the end of May a group of people respected by and acceptable to Iraqis across the country, to form this caretaker Government. Those individuals would then have approximately one month to prepare to assume responsibility for governing the country. Those preparations should include reaching clear understandings on the nature of the relationship among the sovereign caretaker Government, the former occupying Powers — the Powers that by then will be the former occupying Powers — and any foreign forces remaining in the country after 30 June, in addition to an understanding of what assistance, if any, might be required from the United Nations.

How does the idea of convening a national conference fit in? Many Iraqis have suggested that the United Nations convene a national conference, consisting of at least 1,000 people, to engage in a genuine national dialogue on the country's challenges. We could not agree more that there is no greater priority than forging genuine national consensus, and that, to that end, it would be extremely worthwhile to convene a national conference.

In our view, however, the conference should be convened not by the United Nations or by any other external body, but by an Iraqi preparatory committee, which should be established as soon as possible. The committee should work towards identifying who should take part in the conference, when and where it should be convened and how it should be managed. The committee should comprise a small number of reputable and distinguished Iraqis — including prominent and respected judges — who are not seeking political office. The United Nations is ready to facilitate consensus among Iraqis on a suitable slate of names for the committee.

In order to do a proper job, the committee will need at least one to two months to consult widely around the country. Under the circumstances, it would seem that July would be the earliest time to convene the national conference. From preliminary discussions of this idea, we see the conference bringing together anywhere from 1,000 to 1,500 people representing every province in the country, all political parties, tribal chiefs and leaders, trade and professional unions, universities, women's groups, youth organizations, writers, poets and artists, as well as religious leaders, among many others.

For the past three decades, Iraqis were not communicating with one another inside their country. "We were even afraid to talk in front of our children", many of them told us. The conference will, to begin with, allow such a wide and representative sample of Iraqi society to talk to one another and discuss their painful past as well as the future of their country. They will no doubt discuss, first and foremost, the security situation and perhaps contribute ideas on how it should be addressed. They will also talk about the forthcoming elections and will contribute ideas on how to ensure that they are organized in a timely and successful

manner. They will further discuss those aspects of the Transitional Administrative Law that are still the subject of much debate and misunderstanding.

In that connection, I welcome the clarification made recently by Ambassador Paul Bremer, the Administrator of the Coalition Provisional Authority, who, among other things, stressed that "the interim Government will not have the power to do anything which cannot be undone by the elected Government, which takes power early next year".

The fact is that the Transitional Administrative Law is exactly what it says it is: a transitional administrative law for the transition period. It is not a permanent constitution. Indeed, it is not a constitution at all. The Transitional Law — or any other law adopted in the present circumstances — cannot, in our opinion, tie the hands of the national assembly, which will be elected in January 2005 and will have the sovereign responsibility of freely drafting Iraq's permanent constitution. But, again as Ambassador Bremer said,

> "Iraqi unity requires a constitution that all of Iraq's communities can support. It is a fundamental principle of democracy that the constitution should provide for majority rule but also protect minority rights."

Finally, the conference will appoint a consultative council, which will be available to provide advice to the Government. The council would conduct plenary debates to convey the preoccupations of the people to the Government, and it would form committees, which would receive reports from ministers.

As one can see, the convening of the national conference may ultimately constitute an important step towards many things, not least national reconciliation. Questions were raised by some of our Iraqi interlocutors about what that term — "national reconciliation" — actually entails and requires. Of course, the preparatory committee will have to address this issue in due course. But what can be said at this stage is that no one, inside or outside Iraq, is thinking of bringing back the old regime or any of its leaders. Nor should anyone contemplate condoning, directly or indirectly, the gross abuses of the painful past or abandoning the principle of accountability for past crimes. National reconciliation is not a euphemism for impunity.

The issues I have mentioned — including how Iraqis will come to terms with the past — ultimately need to be addressed by the Iraqi people themselves. But the actions that the Coalition Provisional Authority takes in the meantime will affect those discussions and could help to reduce existing tensions significantly. I have in mind in particular — as I mentioned in Baghdad — the manner in which the new army is formed, how the issue of "de-Baathification" is handled and how concerns about due process for current detainees are addressed.

In that regard, I would draw the Council's attention to public remarks made recently by Ambassador Bremer. In those remarks, he indicated that more officers with honourable records — including officers from the former army — would be brought back into the new army. He announced that beginning on 10 May the Coalition Provisional Authority would regularly post lists of detainees at police stations and courthouses throughout the country. He indicated that action would be taken to address legitimate grievances about the way in which the "de-Baathification" policy has been implemented, and he mentioned measures to immediately address that with respect to desperately needed teachers, university professors and so on. If, as a result, thousands of teachers will indeed be able to go back to work, and if thousands more will indeed begin to receive their pensions, then that would be an important step towards the kind of reconciliation that people are currently discussing in Iraq. Such steps may well have a positive effect, even on the security situation.

Another important step that the Coalition Provisional Authority has been considering is the dissolution of existing militias, including the Mahdi Army but of course not only that Army.

In general, I draw attention to those remarks as an illustration of the types of actions that we believe would begin to address very serious grievances raised by Iraqis around the country. In turn, that would help to improve — at least a little — the general atmosphere in which the political process needs to take place.

Looking to the days, weeks and months ahead, our intention is to resume our consultations in Iraq as soon as possible. We earnestly hope that the next phase of consultations will help to consolidate a consensus around the ideas that I have just outlined. Adjustments may be required in order to build as broad a base of

support as possible. Once broad support for the framework is evident, we will then proceed to help to facilitate an Iraqi consensus on the actual composition of the caretaker Government and of the preparatory committee for the national conference.

As I have indicated, I hope all of that can be completed before the end of May 2004. We will, of course, be consulting constantly with Iraqis inside and outside the Governing Council — as well as with the Coalition Provisional Authority — throughout this period. We plan also to intensify dialogue with interested Member States, Iraq's neighbours in particular, in order to seek their advice on and support for this political transition process.

There is much to do, and time is short. The tasks that the Security Council has welcomed and strongly supported us in doing at this juncture — namely, to assist with the establishment of an interim Government by 30 June 2004 and with the preparation of elections to be held by January 2005 — will not be easy. To the contrary, there will be potentially dangerous pitfalls and massive obstacles at every step of the way. But the job is doable so long as we set principled but realistic targets and move towards them with deliberate steps, and so long as we are not alone as we take those steps. In particular, we will need the Security Council to be united behind us and with us.

The President: I thank Ambassador Brahimi for his very comprehensive briefing.

I take this opportunity to welcome the presence of the Secretary-General at this meeting.

In accordance with the understanding reached in the Council's prior consultations, I should now like to invite Council members to informal consultations to continue our discussion of the subject.

The meeting rose at 4.15 p.m.